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Reynolds, and Chris Pair, Co-Executors of the  
Estate of Mark Hughes and Co-Trustees of the  
Mark Hughes Family Trust

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CONRAD LEE KLEIN, et al.,

Plaintiffs,

vs.

ANTHONY PELLICANO, et al.,

Defendants.

Case No. 2:07-CV-00799-DSF-AJWx

**JOINT STATUS REPORT IN CASE  
NO. 07-7999 OF PLAINTIFFS AND  
OF DEFENDANTS PACIFIC BELL  
AND SUZAN HUGHES**

Date: February 27, 2012

Time: 1:30 p.m.

Ctrm: 840

1 Plaintiffs Conrad Lee Klein, Jack Reynolds, and Christopher Pair, co-trustees of  
2 the Mark Hughes Family Trust and co-executors of the Estate of Mark Hughes  
3 ("Plaintiffs"), together with defendants Suzan Hughes and Pacific Bell Telephone  
4 Company ("PacBell"), submit the following report reflecting the status of the above-  
5 captioned action, *Klein, et al. v. Hughes, et al.*, case no. 2:07-CV-00799-DSF-AJWx.

6 Depositions have been taken of the following witnesses: Jack Reynolds and  
7 Christopher Pair. In the *Cohen v. Pellicano* action, case no. CV 05-1485 DSF (AJWx),  
8 Ms. Cohen has taken the Rule 30(b)(6) deposition of PacBell. In the state court cases  
9 (In Re: Pellicano Cases, Superior Court of California, County of Los Angeles Lead Case  
10 no. BC316318), the plaintiffs took the depositions of PacBell employees Stephen  
11 Bantley and Ralph Johnson in October 2011. Plaintiffs in this action have not yet  
12 questioned PacBell's 30(b)(6) witness.

13 Plaintiffs have amended their Rule 26(a) initial disclosures.

14 On August 29, 2011, Plaintiffs served supplemental responses to PacBell's first  
15 set of interrogatories.

16 PacBell sought to produce Mark Hughes' telephone records as part of PacBell's  
17 Rule 26 disclosures. Suzan Hughes objected. The parties contemplated bringing a  
18 motion before the magistrate judge to resolve the dispute. Suzan Hughes has now  
19 withdrawn her objection. Plaintiffs propounded requests for production of documents  
20 upon PacBell seeking production of the telephone records. PacBell served responses to  
21 the requests for production.

22 On February 9, 2012, Plaintiffs propounded their first set of Interrogatories and  
23 second set of Requests for Production of Documents upon PacBell.

24 On November 8, 2011, PacBell propounded its first set of Requests for  
25 Production of Documents upon plaintiff Conrad Lee Klein. Plaintiffs and PacBell have  
26 agreed that Plaintiffs may have until one week after they receive all of PacBell's  
27  
28



1 answers to Plaintiffs' currently outstanding discovery to respond to PacBell's pending  
2 discovery.

3 Plaintiffs still have not received any documents in response to their Touhy  
4 requests which they served (attached to the subpoena) on Assistant United States  
5 Attorney Kevin Lally. Mr. Lally has assured Plaintiffs' counsel that responsive  
6 documents are being reviewed and will be produced. Plaintiffs' counsel spoke to Mr.  
7 Lally most recently on November 28, 2011, and Mr. Lally repeated those assurances.

8 In the related In Re: Pellicano Cases, after extensive briefing by all parties, the  
9 Court, the Honorable Carl West presiding, issued a ruling on the following Threshold  
10 Legal Issues:

11 1. Whether the \$5,000 amount specified in Penal Code Section 637.2(a)(1) is  
12 a compensatory damage or civil penalty.

13 2. Can a plaintiff recover the \$5,000 amount specified in Penal Code Section  
14 637.2(a)(1) from a public telephone company or other defendant for its employees'  
15 violations of Penal Code sections 631 and/or 632 under the doctrine of respondeat  
16 superior, or must a plaintiff also prove that the telephone company or defendant  
17 "ratified" its employees' violations?

18 The Court held as follows:

19 1. The \$5,000 amount specified in Penal Code Section 637.2(a)(1) is a civil  
20 penalty.

21 2. A plaintiff cannot recover the \$5,000 amount specified in Penal Code  
22 Section 637.2(a)(1) from a public telephone company or other defendant for its  
23 employees' violations of Penal Code sections 631 and/or 632 under the doctrine of  
24 respondeat superior; a plaintiff must also prove that the telephone company or defendant  
25 "ratified" its employees' violations, or otherwise satisfies the "direct liability" standard  
26 identified in Cruz v. Homebase (2000) 83 Cal.App.4<sup>th</sup> 160 for officers, directors, or  
27 managing agents.

1 A copy of the ruling is attached hereto as Exhibit A.

2 Plaintiffs and PacBell are engaged in settlement discussions, and anticipate  
3 reaching a settlement within the next 30 to 60 days.

4  
5 Dated: February 20, 2012

AKIN GUMP STRAUSS HAUER &  
FELD LLP  
Edward A. Woods  
Susan K. Leader  
Oleg Stolyar

8 By /s/ Edward A. Woods  
Edward A. Woods

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10 Attorneys for Plaintiffs Conrad Lee Klein,  
11 Jack Reynolds, and Christopher Pair, Co-  
12 Executors of the Estate of Mark Hughes  
and Co-Trustees of the Mark Hughes  
Family Trust

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14  
15 Dated: February 21, 2012

LAW OFFICES OF MARVIN RUDNICK

16  
17 By /s/ Marvin Rudnick  
Marvin L. Rudnick

18 Attorneys for Defendant Suzan Hughes

19  
20  
21 Dated: February 21, 2012

EGAN AVENATTI, LLP

22  
23 By /s/ Jason Frank  
Jason M. Frank

24 Attorneys for Defendant Pacific Bell  
25 Telephone Company